

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 509

Call to Order: By **CHAIRMAN ROYAL JOHNSON**, on April 14, 2003 at 4:10 P.M., in Room 317-B & C Capitol.

ROLL CALL

Members Present:

Sen. Royal Johnson, Chairman (R)
Rep. Alan Olson, Vice-Chairman (R)
Sen. Bea McCarthy (D)
Sen. Fred Thomas (R)
Rep. Scott Mendenhall (R)

Members Excused: None.

Members Absent: Rep. Gary Matthews (D)

Staff Present: Todd Everts, Legislative Service Division
Marion Mood, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: HB 509

CHAIRMAN ROYAL JOHNSON, SD 5, BILLINGS, opened the Free Conference Committee on HB 509 and stated **REP. ALAN OLSON** had **REP. GARY MATTHEWS'** proxy . He went on to say the sponsor would not go through the whole bill again but merely explain the technical amendment he was bringing forth.

Motion: **REP. OLSON** moved that HB 509 BE CONCURRED IN.

Substitute Motion: **REP. OLSON** moved that **AMENDMENT HB050905.ATE, EXHIBIT (frs80hb0509a01)**, BE ADOPTED.

Discussion:

REP. ALAN OLSON, HD 8, ROUNDUP, stated his amendment changed line 25 on page 15 of the bill by striking "90" through "ACT" and inserting "December 31, 2003." This gave an industrial customer a 180-day option to make his choice to either opt back in to the default supply or not, instead of giving him just 90 days.

CHAIRMAN JOHNSON feared this new deadline might interfere with a potential new contract.

SEN. FRED THOMAS, SD 31, STEVENSVILLE, joined the committee and **CHAIRMAN JOHNSON** filled him in on what had transpired so far.

SEN. THOMAS reiterated since the 90 days would start with the effective date of the bill, the new deadline would extend the time period which the sponsor affirmed. **SEN. THOMAS** asked if the large customer did not elect to come back within this time, would their staying off be permanent. There seemed to be some confusion about the issue, and **CHAIRMAN JOHNSON** asked **Mr. Everts** to go over these provisions. **Mr. Everts** advised the large customer had a one-time election to come back to the default supply; this amendment merely allowed the election to take place through December 31, 2003.

SEN. BEA MCCARTHY, SD 29, ANACONDA, inquired how many customers would potentially be affected by this amendment. **CHAIRMAN JOHNSON** advised all customers with over 5,000 kilowatts of power. **SEN. MCCARTHY** still wondered how many customers would fall into this category; **Mr. Everts** did not know. **Commissioner Rowe, PSC**, informed them it was between fifteen and twenty large customers. **SEN. MCCARTHY** surmised the two universities were included in this category. **Commissioner Rowe** explained the educational institutions were treated separately. When **SEN. MCCARTHY** inquired further, **John Bushnell, Northwest Power Planning Council**, stated the university systems, who were current default supply customers, had the option of going to choice and coming back in without restrictions due to a different clause in their contract. **SEN. MCCARTHY** apologized for not having read through the relevant section of the bill again.

SEN. THOMAS wondered why the sponsor was bringing this amendment; he knew some of the default supplier's contracts would be renewed on July 1, 2003; while the 90 day deadline would go past this date, going all the way to the end of the year might pose some difficulty in being able to secure power. He preferred the large customers make their election sooner rather than later. **REP. OLSON** stated there had been concern 90 days would not give some of the industrial customers enough time to check on their contracts and have the information needed to determine whether they wanted to remain on the default supply or go into the

market. **SEN. THOMAS** probed whether any specific industrials had been mentioned, and **REP. OLSON** told him none were mentioned specifically.

REP. MENDENHALL, HD 39, CARDWELL, stated it was a benign amendment, and he would support it. He added no one knew what market conditions would be this fall, and it was not unreasonable to give the industrials an extra three months in which to make a permanent decision.

REP. OLSON addressed **Mr. Fitzpatrick, Northwestern Energy**, and asked if his company had any contracts coming up this year; **Mr. Fitzpatrick** replied they had one; the Butte Power contract would expire on July 1, 2003.

SEN. THOMAS announced he would vote against this amendment because it seemed to him the industrials should know what they were doing, and they did not need the extra time; moreover, he contended they were better off outside of the default supply. He felt small customers would be harmed if the industrials came back in and repeated 90 days were plenty of time for a determination.

CHAIRMAN JOHNSON inquired if he knew of any contracts which would mature between June 1, 2003 and December 31, 2003. **Mr. Fitzpatrick** could not think of any. **SEN. THOMAS** asked how Northwestern Energy would handle a situation where a large customer opted back in, using 50 megawatts. **Mr. Fitzpatrick** replied with a substantial load like this, they would have to go out into the market and procure the power, with the anticipation that the PSC would approve the cost. **SEN. THOMAS** surmised the 50 megawatts would be purchased pursuant to the terms, and wondered if the cost of those 50 megawatts would be averaged in with the remaining default supply or would they be paid for directly by the industrial. **Mr. Fitzpatrick** explained the industrial would pay. **SEN. THOMAS** stated if that was the case, the amendment did not bother him.

Substitute Motion/Vote: **SEN. McCARTHY** made a substitute motion that **AMENDMENT HB050905.ATE** BE ADOPTED. Substitute motion carried unanimously.

CHAIRMAN JOHNSON introduced **Amendment HB50907.ate**, **EXHIBIT (frs80hb0509a02)**, and **Mr. Everts** explained this amendment served to correct an oversight on his part; he had failed to strike "customer choice" on line 6, page 17, and insert "transition", and this amendment took care of this.

Substitute Motion/Vote: SEN. McCARTHY made a substitute motion that AMENDMENT HB50907.ATE BE ADOPTED. Substitute motion carried unanimously.

Motion/Vote: SEN. McCARTHY moved that HB 509 BE CONCURRED IN AS AMENDED. Motion carried unanimously, with REP. MATTHEWS voting aye by proxy.

CHAIRMAN JOHNSON thanked the people in the audience for their help, saying it might not be the best bill but it reflected everyone's best effort, and it provided protection to the small customer. He added he was pleased to have a continuation of some oversight through the interim committee and expressed hope its members would collaborate with the PSC and industry representatives.

SEN. THOMAS reminded the chairman of a meeting with NorthWestern Energy scheduled for the following day, and he hoped this Conference Committee Report would not be expedited through pending the outcome of the meeting. CHAIRMAN JOHNSON inquired by what date the bill had to be back in the House, and SEN. THOMAS advised it would be due on the last day of the session.

CHAIRMAN JOHNSON agreed to hold the report until after the meeting and invited the sponsor's comments. REP. OLSON stated he agreed with SEN. THOMAS because of the financial issues which were to be discussed; nothing would be changed in the bill, but they had some concerns with regard to the default supplier, and those might result in an addition to the bill.

ADJOURNMENT

Adjournment: 4:30 P.M.

SEN. ROYAL JOHNSON, Chairman

Marion Mood, Secretary

RJ/MM

EXHIBIT (frs80hb0509aad)